

C/007/020 Incoming
cc: Steve A,
Dana

Bruce A. Markell

Honorable Bruce A. Markell
United States Bankruptcy Judge



Entered on Docket
February 20, 2013

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:) Chapter 11
AMERICA WEST RESOURCES, INC., et al.,)
Debtors.) Jointly Administered Under
Case No. BK – 13-10865 bam
Date: March 06, 2013
Time: 10:00 AM

**NOTICE OF HEARING AND ORDER SHORTENING TIME TO HEAR MOTION FOR
ORDER AUTHORIZING PROCEDURE FOR (I) REJECTION OR ASSUMPTION AND
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND
(II) SETTING FORTH OF CURE AMOUNTS**

This Court having considered the Debtors' *Ex Parte Application for Order Shortening Time to Hear Motion for Order Authorizing Procedure for (i) Rejection or Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of Cure Amounts*, and good cause appearing therefor,

IT IS HEREBY ORDERED and notice is hereby given that the *Motion for Order Authorizing Procedure for (i) Rejection or Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of Cure Amounts* (the "Motion") be, and the same will be heard by a United States Bankruptcy Judge on the 6 day of March, 2013, at 10:00 AM. A

1 copy of the above-referenced Motion is on file with the clerk of the United States Bankruptcy Court
2 for the District of Nevada.

3 IT IS FURTHER ORDERED that service of this Order Shortening Time shall be served within
4 1 days of entry, that any oppositions to the Motion must be filed and served by
5 March 05, 2013; that replies to any oppositions filed must be filed and served by
6 the date and time of the
7 hearing; and that this hearing may be continued from time to time without further
8 notice except for the announcement of any adjourned dates and times at the above-noticed hearing or
9 any adjournment thereof.

10 IT IS SO ORDERED.

11
12 PREPARED AND SUBMITTED:

13
14 FLASTER/GREENBERG P.C.

15 By: /s/ Eric J. Van, Esq.
16 Steven D. Usdin, Esq.
17 William J. Burnett, Esq.
18 Eric J. Van, Esq.
19 4 Penn Center, 2nd Floor
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Philadelphia, PA 19103

21 *Proposed Counsel for the Debtors*

22 ###

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ELECTRONICALLY FILED

February 19, 2013

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20 *Proposed Counsel for the Debtors*

21 UNITED STATES BANKRUPTCY COURT
22 DISTRICT OF NEVADA

23 In Re:) Chapter 11
24)
25 AMERICA WEST RESOURCES, INC., *et al.*,) Jointly Administered Under
26) Case No. BK – 13-10865 bam
27 Debtors.)
28) **MOTION FOR ORDER**
) **AUTHORIZING PROCEDURE FOR**
) **(I) REJECTION OR ASSUMPTION**
) **AND ASSIGNMENT OF**
) **EXECUTORY CONTRACTS AND**
) **UNEXPIRED LEASES AND (II)**
) **SETTING FORTH OF CURE**
) **AMOUNTS**

Date: OST PENDING
Time: OST PENDING
Place: Foley Building, Courtroom 3

29 Debtors, America West Resources, Inc.; Hidden Splendor Resources, Inc.; America West
30 Marketing, Inc.; and America West Services, Inc. d/b/a Wildcat Loadout (each a "Debtor," and

1 collectively, the "Debtors") hereby submit this *Motion for Order Authorizing Procedure for (i)*
2 *Rejection or Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii)*
3 *Setting Forth of Cure Amounts* (the "Motion").

4 Through this Motion, the Debtors hereby move this Court for the entry of an Order, in the form
5 attached hereto as Exhibit 1, approving: (i) the procedure by which the Debtors seek to reject or
6 assume and assign contracts in connection with the sale of substantially all of their assets; and (ii) the
7 procedure for resolving any cure objections related thereto.

9 This Motion is made and based upon the *Omnibus Declaration of John Chapman, Chief*
10 *Restructuring Officer, in Support of the Debtors' First Day Motions* [Docket No. 7] (the "Omnibus
11 Declaration"), which is incorporated by reference, the points and authorities set forth herein, and any
12 argument of counsel made at hearing on this Motion.

14 POINTS AND AUTHORITIES

16 I. 17 INTRODUCTION

18 1. On February 1, 2013, the Debtors each filed their voluntary petitions) pursuant to
19 Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), thereby initiating the
20 above-captioned bankruptcy cases. The Debtors are in the business of mining bituminous coal for
21 commercial sale.

22 2. The Debtors have been operating as debtors-in-possession pursuant to Sections 1107
23 and 1108 of the Bankruptcy Code.

24 3. No trustee has been appointed in the Debtors' cases, nor has any request been made for
25 the appointment of a trustee or examiner. No official committees have been established in the
26 Debtors' Chapter 11 cases.
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II.
JURISDICTION AND VENUE

4. This Court has jurisdiction of this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these cases in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The relief sought herein is based upon Rule 6006 of the Federal Rules of Bankruptcy Procedure.

6. This Motion constitutes a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A).

III.
BACKGROUND

7. By way of background, the Debtors hereby incorporate the Omnibus Declaration by reference in its entirety, as well as all filings in these cases made to date.

8. On February 11, 2013, the Debtors filed a *Motion for Entry of Orders Authorizing (A) Emergent Consideration of a Proposed Sale of Substantially All of the Debtors' Assets, Free and Clear of All Claims, Liens, Liabilities, Rights, Interests and Encumbrances; (B) Emergent Consideration of Bidding and Noticing Procedures Related to the Sale; (C) Consideration of Proposed Form of Asset Purchase Agreement; (D) Consideration of Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (E) Scheduling an Auction Sale and Approval of Notice of Same; and (F) Granting Related Relief* (the "Sale Motion"), seeking approval of Bidding Procedures governing the proposed sale (the "Sale") of substantially all of the assets (the "Assets") of the Debtors. See Docket No. 43.

9. The proposed Bidding Procedures, as amended, envision, among other things, an auction of the Assets on April 9, 2013 (the "Auction"), with a hearing on approval of the sale of the Assets to the successful bidder (the "Successful Bidder") on April 10, 2013 (the "Sale Hearing"). See id., Exhibit A (the "Bidding Procedures") at 1.

10. The proposed Bidding Procedures will involve an open auction by qualified bidders without a stalking horse, where the identity of the Successful Bidder will not be known until the Auction is completed. See id.

11. The proposed Bidding Procedures further require that qualified bidders submit a comprehensive list of all executory contracts and unexpired leases that the Debtors will need to assume and assign, along with the corresponding cure amounts associated with the assumption and assignment of such contracts and leases. See Bidding Procedures at 4.

IV.
RELIEF REQUESTED

12. The Debtors seek to streamline the process by which third-party holders of executory contracts and unexpired leases of the Debtors (collectively, the “Contracts” and each a “Contract”) get notice of the potential rejection or assumption and assignment of their Contract as well as the attendant proposed cure costs. The process suggested hereby will give such holders of Contracts ample notice with an opportunity to object to: (i) the potential that their respective Contracts are subject to assumption or rejection depending on the outcome of the Auction; and (ii) the proposed amount of the associated cure costs for their respective Contracts.

13. Attached hereto as Exhibit 2 is the list of all known potential Contracts of the Debtors with the corresponding proposed cure amounts (the “Cure Amounts”) pursuant to the Debtors’ books and records (the “Cure List”).¹

14. By the filing of this Motion and service of the Motion on all parties in interest including any entities that are party to a Contract, the Debtors seek to give notice of the process proposed hereby. The proposed *Notice of Proposed (i) Rejection or Assumption and Assignment of Executory Contracts*

¹ The Cure List was assembled to encompass all agreements that the Debtors are a party to and that may be potentially capable of rejection or assumption and assignment. The Debtors are not asserting that every agreement set forth on the Cure List is necessarily an “executory contract” or an “unexpired lease” in accordance with applicable bankruptcy and non-bankruptcy law. The Debtors reserve all of their rights in this regard.

1 *and Unexpired Leases and (ii) Cure Amounts for Assumed Contracts* (the "Contract Notice"), in the
2 form attached hereto as Exhibit 3, will be served upon all such parties in interest within two days of the
3 entry of an Order approving this Motion, providing further notice of all relevant procedures.

4 15. As set forth in the Contract Notice, this Motion seeks approval of the following
5 procedures:

- 6 (a) To the extent that any entity that is party to a Contract with the Debtor
7 listed on Exhibit 2 hereto objects to the Cure Amounts shown with respect
8 to their Contract; such party must file a written objection (a "Cure
9 Objection") prior to **March 29, 2013 at 5 p.m. PDT** (the "Cure Objection
10 Deadline").
11
- 12 (b) Any Cure Objection must state the specific defaults alleged by the
13 objecting party, as well as the amount alleged necessary to cure the
14 default. If a timely Cure Objection for a given Contract is not filed, and
15 that Contract is assumed and assigned, the holder of the Contract will
16 receive the Cure Amount listed on Exhibit 2 in the manner provided in the
17 final Asset Purchase Agreement entered into between the Successful
18 Bidder and the Debtors.
19
- 20 (c) To the extent that any entity that is party to a Contract with the Debtor
21 listed on Exhibit 2 hereto objects to the potential assumption and
22 assignment of their Contract in connection with the Sale, or the potential
23 rejection of their Contract if it is not assumed and assigned to the
24 Successful Bidder in connection with the Sale, such party must make an
25 objection (an "Assumption/Rejection Objection") by: (i) filing a written
26 objection before the Sale Hearing, and/or (ii) appearing at the Sale
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1 Hearing and setting forth the Assumption/Rejection Objection in person at
2 the Sale Hearing.

3 (d) The results of the Auction may not be made available to holders of
4 Contracts until the Sale Hearing or shortly before the Sale Hearing, and
5 the Debtors may not file a notice setting forth the Successful Bidder and
6 any Contracts that will be assumed and assigned until after the Sale
7 Hearing is completed. Therefore, holders of Contracts may not be
8 informed whether or not their Contract will in fact be assumed and
9 assigned to the Successful Bidder until the Sale Hearing. However, they
10 will not have the opportunity to file an objection after the Sale Hearing.
11 Holders of Contracts may prospectively file an Assumption/Rejection
12 Objection at any time prior to the date of the Auction, without knowledge
13 of the identity of the Successful Bidder or whether their Contract will be
14 rejected or assumed and assigned.
15

16
17 (e) To the extent the Debtors do not seek to assume and assign any particular
18 Contract as part of any Sale, such Contract shall be deemed rejected
19 pursuant to Section 365 of the Bankruptcy Code, and such rejection will
20 be deemed to have occurred as of the date that this Court enters an Order
21 approving this Motion.
22

23 (f) The Debtors reserve the right to seek hearing on any Cure Objection or
24 Assumption/Rejection Objection on an expedited basis, including upon an
25 order shortening time or by hearing via telephonic appearance, as
26 necessary to resolve such objection prior to the Sale Hearing.
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1 (g) Any unresolved issues in any Cure Objection or Assumption/Rejection
2 Objection will be heard at the Sale Hearing.

3 (h) Failure to timely file and serve a Cure Objection by the Cure Objection
4 Deadline or to set forth an Assumption/Rejection Objection by the Sale
5 Hearing shall forever bar the holder of a Contract from asserting a Cure
6 Objection or an Assumption/Rejection Objection, respectively.
7

8 16. By the process proposed in this Motion, the Debtors seek authority to notify each holder
9 of a Contract at the presentation of the Successful Bidder to this Court at the Sale Hearing on April 10,
10 2013 at 10:00 a.m. whether the Debtors propose to: (i) reject such Contract; or (ii) assume and assign
11 such Contract to the Successful Bidder for the Cure Amount (in accordance with the amount listed on
12 Exhibit 2 hereby or as fixed by this Court after a Cure Objection). Such holder of a Contract may
13 attend the Sale Hearing and make an Assumption/Rejection Objection, if it desires.
14

15 V.
16 LEGAL ARGUMENT

17 As discussed in the Sale Motion, the Debtors are entitled to relief under Section 365 of the
18 Bankruptcy Code. That Section provides, *inter alia*, that a debtor may assume or reject an executory
19 contract or unexpired lease, provided that, if there is a default, the default is cured. 11 U.S.C. § 365(a),
20 (b)(1). In this circumstance, since the Debtors will need to hold the Auction shortly before the Sale
21 Hearing due to the exigencies related to the Sale described in the Sale Motion, and because there will
22 not be a stalking horse, the Debtors do not know what ongoing agreements the Successful Bidder may
23 want to assume. The Debtors therefore submit that they be permitted to assume and assign (and cure,
24 if necessary) any executory contract or unexpired lease that the Successful Bidder may desire to
25 assume in conjunction with the Sale, and reject the remaining Contracts.
26

27 The proposed form of Contract Notice will provide all holders of Contracts with timely notice
28 of the foregoing. It will inform all holders of Contracts that their Contract may be an executory

1 contract or unexpired lease, that their Contract may be assumed and assigned or rejected in connection
2 with the Sale, and will set forth the Cure Amount should their Contract be assumed and assigned.

3 As the Debtors intend to serve the Contract Notice within two business days of its approval by
4 this Court, holders of Contracts will be on notice well in advance of the need to examine the proposed
5 Cure Amounts and object, if necessary, by the Cure Objection Deadline with such objection to be
6 heard at the Sale Hearing. Holders of Contracts will also be put on advance notice of the need to
7 monitor the status of the Bankruptcy Cases and object, if necessary, to the assumption or rejection of
8 their Contracts at the Sale Hearing, as well of their ability to object prior to learning of the outcome of
9 the Auction. As holders of Contracts will be allowed to set forth Assumption/Rejection Objections by
10 filing in advance or making appearances at the Sale Hearing, they will not be prejudiced by the time
11 gap between the Auction and the Sale Hearing. Due to the speed with which the Debtors intend to
12 complete the Sale, pursuant to the Bidding Procedures for which the Debtors seek approval through the
13 Sale Motion, the Debtors submit that any further notice is not required and will waste significant time
14 and resources.

15 Furthermore, the proposed Contract Notice will inform pending bidders of the cure costs
16 involved in purchasing the Debtors' business. By providing for a Cure Objection Deadline of March
17 29, 2013, the proposed Contract Notice will allow Cure Objections to be filed well in advance of the
18 Auction, and give bidders an ability to estimate the potential range of cure costs.

19 The proposed Contract Notice sets forth procedures which are necessary to allow for the
20 assumption and assignment of Contracts to the Successful Bidder, which is a prerequisite to a
21 successful and timely Sale of the Assets in compliance with the Bidding Procedures. Therefore, this
22 Motion should be approved alongside the Sale Motion.

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VI.
CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter the Order attached hereto as Exhibit 1, along with any such other relief as is just and equitable.

DATED this 19th day of February, 2013.

FLASTER/GREENBERG P.C.

BY: /s/ Eric J. Van, Esq.
Steven D. Usdin, Esq. (Admitted Pro Hac Vice)
William J. Burnett, Esq. (Pro Hac Pending)
Eric J. Van, Esq. (Nevada Bar No. 10259)

Exhibit 1

Proposed Order

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7 UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

8 In Re:) Chapter 11
9)
10 AMERICA WEST RESOURCES, INC., *et al.*,) Jointly Administered Under
11 Debtors.) Case No. BK – 13-10865 bam
12) **ORDER AUTHORIZING**
13) **PROCEDURE FOR (I) REJECTION**
14) **OR ASSUMPTION AND**
15) **ASSIGNMENT OF EXECUTORY**
16) **CONTRACTS AND UNEXPIRED**
17) **LEASES AND (II) SETTING FORTH**
18) **OF CURE AMOUNTS**

16 Debtors, America West Resources, Inc.; Hidden Splendor Resources, Inc.; America West
17 Marketing, Inc.; and America West Services, Inc. d/b/a Wildcat Loadout (each a “Debtor,” and
18 collectively, the “Debtors”) filed a *Motion for Order Authorizing Procedure for (i) Rejection or*
19 *Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of*
20 *Cure Amounts* (the “Motion”) [ECF No. ____], which came on for hearing before this Court on March 6,
21 2013 at 10:00 a.m. All appearances were duly noted on the record at the hearing on this Motion.
22

23 The Court having reviewed the Motion and all matters submitted therewith; and upon
24 consideration of the Motion and any response thereto; and notice of the Motion having been proper;
25 the Court having stated its findings of fact and conclusions of law at the hearing; and good cause
26 appearing therefor;
27

28 **IT IS HEREBY ORDERED** as follows:

- 1 1. The Motion is granted.
- 2 2. The Court hereby approves the form of *Notice of Proposed (i) Rejection or Assumption*
- 3 *and Assignment of Executory Contracts and Unexpired Leases and (ii) Cure Amounts for Assumed*
- 4 *Contracts* (the "Contract Notice"), attached hereto as Exhibit 1, and all procedures for the assumption
- 5 and assignment of executory contracts and unexpired leases set forth therein, including but not limited
- 6 to the following procedures for the Sale of the Assets of the Debtors:²

7 (a) To the extent that any entity that is party to a Contract with the Debtor

8 listed on Exhibit 2 to the Motion objects to the Cure Amounts shown with

9 respect to their Contract; such party must file a written objection (a "Cure

10 Objection") prior to **March 29, 2013 at 5 p.m. PDT** (the "Cure Objection

11 Deadline").

12 (b) Any Cure Objection must state the specific defaults alleged by the

13 objecting party, as well as the amount alleged necessary to cure the

14 default. If a timely Cure Objection for a given Contract is not filed, and

15 that Contract is assumed and assigned, the holder of the Contract will

16 receive the Cure Amount listed on Exhibit 2 to the Motion in the manner

17 provided in the final Asset Purchase Agreement entered into between the

18 Successful Bidder and the Debtors.

19 (c) To the extent that any entity that is party to a Contract with the Debtor

20 listed on Exhibit 2 to the Motion objects to the potential assumption and

21 assignment of their Contract in connection with the Sale, or the potential

22 rejection of their Contract if it is not assumed and assigned to the

23 Successful Bidder in connection with the Sale, such party must make an

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² All undefined capitalized terms used herein shall have the meaning set forth in the Motion.

1 objection (an "Assumption/Rejection Objection") by: (i) filing a written
2 objection before the Sale Hearing, and/or (ii) appearing at the Sale
3 Hearing and setting forth the Assumption/Rejection Objection in person at
4 the Sale Hearing.

5 (d) The results of the Auction may not be made available to holders of
6 Contracts until the Sale Hearing or shortly before the Sale Hearing, and
7 the Debtors may not file a notice setting forth the Successful Bidder and
8 any Contracts that will be assumed and assigned until after the Sale
9 Hearing is completed. Therefore, holders of Contracts may not be
10 informed whether or not their Contract will in fact be assumed and
11 assigned to the Successful Bidder until the Sale Hearing. However, they
12 will not have the opportunity to file an objection after the Sale Hearing.
13 Holders of Contracts may prospectively file an Assumption/Rejection
14 Objection at any time prior to the date of the Auction, without knowledge
15 of the identity of the Successful Bidder or whether their Contract will be
16 rejected or assumed and assigned.

17 (e) To the extent the Debtors do not seek to assume and assign any particular
18 Contract as part of any Sale, such Contract shall be deemed rejected
19 pursuant to Section 365 of the Bankruptcy Code, and such rejection will
20 be deemed to have occurred as of the date that this Court enters an Order
21 approving this Motion.

22 (f) The Debtors reserve the right to seek hearing on any Cure Objection or
23 Assumption/Rejection Objection on an expedited basis, including upon an
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1 order shortening time or by hearing via telephonic appearance, as
2 necessary to resolve such objection prior to the Sale Hearing.

3 (g) Any unresolved issues in any Cure Objection or Assumption/Rejection
4 Objection will be heard at the Sale Hearing.

5 (h) Failure to timely file and serve a Cure Objection by the Cure Objection
6 Deadline or to set forth an Assumption/Rejection Objection by the Sale
7 Hearing shall forever bar the holder of a Contract from asserting a Cure
8 Objection or an Assumption/Rejection Objection, respectively.
9

10 4. Within two business days after entry of this Order, the Debtors shall serve the Contract
11 Notice upon all counterparties to all executory contracts and unexpired leases set forth in the Contract
12 Notice.
13

14 **IT IS SO ORDERED.**

15
16 PREPARED AND SUBMITTED:

17
18 FLASTER/GREENBERG P.C.
19

20 By: _____

21 Steven D. Usdin, Esq.
22 William J. Burnett, Esq.
23 Eric J. Van, Esq.
24 4 Penn Center, 2nd Floor
25 1600 J.F.K. Boulevard
26 Philadelphia, PA 19103
27 *Proposed Counsel for the Debtors*
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LR 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the Order accurately reflects the Court's ruling and that:

- ☐ The Court waived the requirement of approval under LR 9021.
- ☐ No party appeared at the hearing or filed an objection to the Motion.
- ☐ I have delivered a copy of this proposed Order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]
- ☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this Order with the Motion pursuant to LR 9014(g), and that no party has objected to the form or content of the Order.

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Exhibit 2

Cure List

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America West Resources and Subsidiaries
Schedule of Executory Contracts, Permits and Other Executory Agreements

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT		DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT	DEBTOR	Inception	ANTICIPATED CURE AMOUNT
Advanced Retirement Consultants 310 E. 4500 S. Suite 150 Salt Lake City, UT 84107		Administrative Services for company 401k plan	Hidden Splendor Resources	Month to Month	\$6,500.00
Air Liquide Industrial U.S. LP ("ALIUS") 2700 Post Oak Boulevard, Suite 1800 Houston, TX 77056		Grants ALIUS use of siding at Wildcat loadout.	America West Services	12-Dec-11	\$0.00
Alexander H. Walker III and Cecil Ann Walker 57 West 200 South, Suite 400 Salt Lake City, UT 84101		Bonding Agreement for Coal Permit C/007/0020 via Lexington Insurance and Bank One	Hidden Splendor Resources	14-May-03	\$0.00
Arlington Ventures, L.L.C. c/o Alexander H. Walker III 57 West 200 South, Suite 400 Salt Lake City, UT 84101		Lease on Office and Shop in Price.	America West Resources and Hidden Splendor Resources	Month to Month	\$354,000.00
Arlington Ventures, L.L.C. c/o Alexander H. Walker III 57 West 200 South, Suite 400 Salt Lake City, UT 84101		Water Rights 91-330 Change a21487	Hidden Splendor Resources	Month to Month	\$49,000.00
Associated Energy Services Division Spark Energy Gas, LP 2015 City West Boulevard, Suite 100 Houston, TX 77042		Oil Transloading Agreement at Wildcat	America West Resources	05-Sep-12	\$0.00
Bureau of Land Management Utah State Office PO Box 45155 Salt Lake City, UT 84145		Coal Lease UTU-74804 as Modified	Hidden Splendor Resources	01-Sep-98	\$600,000.00
Carbon Emery Telecom 625 East 100 North Price, UT 84501		Telephone service at Mine and Price Office	America West Resources	Month to Month	\$0.00

America West Resources and Subsidiaries
Schedule of Executory Contracts, Permits and Other Executory Agreements

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT	DEBTOR	Inception	ANTICIPATED CURE AMOUNT
Chinook Ventures 4029 Industrial Way Longview, WA 98632	Coal Handling Agreement at port of Longview WA. No action under agreement because of permitting issues affecting counterparty in Longview.	America West Marketing	29-Apr-10	\$0.00
Department of Water and Power City of Los Angeles Intermountain Power Agency 10653 S. River Front Parkway, Suite 120 South Jordan, UT 84095	Lease on Wildcat Loadout and First Amendment thereto.	America West Resources / America West Services	09-Jun-11	\$0.00
Department of Water and Power City of Los Angeles Intermountain Power Agency 111 North Hope Street Los Angeles, CA 90012-2607	Coal Supply Agreement Number 575 and Change Order 001 thereto.	America West Resources / America West Services	01-May-10	\$1,100,000.00
Department of Water and Power City of Los Angeles Intermountain Power Agency 111 North Hope Street Los Angeles, CA 90012-2607	Coal Hauling Agreement Number 606	America West Resources / America West Services	01-Jan-12	\$0.00
Department of Water and Power City of Los Angeles Intermountain Power Agency 111 North Hope Street Los Angeles, CA 90012-2607	Coal Transloading Agreement Number 605 - linked to and coterminous with Lease on Wildcat and any extensions thereto.	America West Resources / America West Services	01-Jan-12	\$0.00
Flat Iron Capital 1700 Lincoln Street Denver, CO 80203	Liability and casualty insurance financing agreement	America West Resources and Hidden Splendor Resources	01-Jul-12	\$0.00

America West Resources and Subsidiaries
Schedule of Executory Contracts, Permits and Other Executory Agreements

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT	DEBTOR	Inception	ANTICIPATED CURE AMOUNT
Hughes Network Systems, LLC PO Box 3475 Toledo, OH 43607-0475	Internet access	America West Resources	Month to Month	\$180.00
ITX Corporation 1169 Pittsford-Victor Road Pittsford, NY 14534	Quickbooks online access and support. Cannot operate Quickbooks without change to service or replacement software	America West Resources	Month to Month	\$0.00
Metamining, Inc. 1965 E. Hillside Boulevard, Suite 318 Foster City, CA 94404	Coal Purchase Agreement Note - Contract has 3 year extension at mutual agreement of parties	America West Resources	01-Apr-10	\$500,000.00
Mine Safety and Health Administration PO Box 253667 Denver, CO 80225	Approved Roof Control Plan	Hidden Splendor Resources	13-Dec-12	\$0.00
Mine Safety and Health Administration PO Box 253667 Denver, CO 80225	Approved Mine Ventilation Plan	Hidden Splendor Resources	01-Aug-05	\$0.00
PacifiCorp Energy 1407 W. North Temple, Suite 310 Salt Lake City, UT 84116	Coal Purchase Agreement	America West Resources	04-Nov-10	\$0.00
Premium Assignment Corporation 3522 Thomasville Road Tallahassee, FL 32314	Directors and Officers Insurance Coverage	America West Resources	01-Oct-12	\$0.00
Price River Water Improvement District RR 6 Helper, UT 84526	Sewage Hauling Agreement	Hidden Splendor Resources	Month to Month	\$0.00
Rockwood Premium Casualty Insurance 654 Main Street Rockwood, PA 15557	Worker's compensation insurance agreement	America West Resources	01-Oct-12	\$0.00

America West Resources and Subsidiaries
Schedule of Executory Contracts, Permits and Other Executory Agreements

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT	DEBTOR		Inception	ANTICIPATED CURE AMOUNT
State of Utah Department of Environmental Quality Division of Air Quality 150 N 1950 West Salt Lake City, UT 84114	Air Quality Permit	Lodestar Energy - Assigned to Hidden Splendor		11/7/200	\$0.00
State of Utah Department of Environmental Quality Division of Water Quality 288 N 1460 West Salt Lake City, UT 84114	Utah Pollutant Discharge Elimination General Permit No. UTG 040000	Hidden Splendor Resources		01-May-08	\$0.00
State of Utah Department of Natural Resources Division of Oil Gas and Mining 1594 West North Temple, Suite 1210 Salt Lake City, UT 84114	Mining Permit C/007/0020	Hidden Splendor Resources		10-Oct-96	\$0.00
State of Utah Department of Natural Resources Division of Oil Gas and Mining 1594 West North Temple, Suite 1210 Salt Lake City, UT 84114	Reclamation Agreement	Hidden Splendor Resources		11-Jun-03	\$16,000.00
United States Department of the Interior Bureau of Land Management 125 South 600 West Price, UT 84501	Assignment of Right of Way Grants - UTU-49754 a/k/a Rights to use of Consumers Road Property	America West Resources and Hidden Splendor Resources		01-Mar-12	\$0.00
Wild West Equipment and Hauling, LLC 4855 North Spring Glen Road Helper, UT 84526	Coal transportation and handling services	America West Resources		15-Mar-10	\$446,000.00

Exhibit 3

Contract Notice

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1 Ambrish S. Sidhu, Esq., State Bar No. 7516
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ELECTRONICALLY FILED
March __, 2013

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19 eric.van@flastergreenberg.com

20 *Proposed Counsel for the Debtors*

21 UNITED STATES BANKRUPTCY COURT
22 DISTRICT OF NEVADA

23 In Re:) Chapter 11
24)
25 AMERICA WEST RESOURCES, INC., *et al.*,) Jointly Administered Under
26) Case No. BK – 13-10865 bam
27 Debtors.)
28) **NOTICE OF PROPOSED (I)**
) **REJECTION OR ASSUMPTION AND**
) **ASSIGNMENT OF EXECUTORY**
) **CONTRACTS AND UNEXPIRED**
) **LEASES AND (II) CURE AMOUNTS**
) **FOR ASSUMED CONTRACTS**

29 PLEASE TAKE NOTICE that on March __, 2013, the above-captioned court (the "Bankruptcy
30 Court") entered an *Order Authorizing (A) Emergent Consideration of a Proposed Sale of Substantially*
31 *All of the Debtors' Assets, Free and Clear of All Claims, Liens, Liabilities, Rights, Interests and*
32 *Encumbrances; and (B) Emergent Consideration of Bidding and Noticing Procedures Related to the*
33 *Sale* (the "Bid Procedures Order"), approving, among other things, the Bidding Procedures governing

1 the proposed sale (the "Sale") of substantially all of the assets (the "Assets") of the above-captioned
2 debtors (the "Debtors").

3 PLEASE TAKE FURTHER NOTICE that on March __, 2013, the Bankruptcy Court entered
4 an *Order Authorizing Procedure for (i) Rejection or Assumption and Assignment of Executory*
5 *Contracts and Unexpired Leases and (ii) Setting Forth of Cure Amounts* (the "Contract Order"),
6 approving, among other things, the procedure for the (i) assumption and assignment (and cure, if
7 necessary) of executory contracts and unexpired leases in connection with the Sale; (ii) resolution of
8 any cure objections related thereto; and (iii) rejection of executory contracts and unexpired leases not
9 assumed and assigned as a part of the Sale.
10

11 PLEASE TAKE FURTHER NOTICE that pursuant to the Bid Procedures Order and Contract
12 Order, the Debtors may seek to assume and/or assign any executory contract or unexpired lease
13 (individually, a "Contract" and collectively, the "Contracts") to which you are a counterparty.
14 Attached to this Notice as Exhibit A is a list of all Contracts which the Debtors may seek to assume
15 and assign to one or more successful bidders (the "Successful Bidder"), if any, at the proposed auction
16 of the Debtors' Assets on April 9, 2013 (the "Auction"). Amounts set forth next to each listed
17 Contract are the respective amounts the Debtors believe are due and owing to cure any existing
18 defaults of the Debtors under such Contract prior to assumption and assignment (the "Cure Amounts"),
19 based upon the Debtors' books and records. The Successful Bidder will be solely responsible for
20 demonstrating adequate assurance of its future performance under any Contracts to be assigned to it.
21

22 CURE OBJECTIONS

23
24 PLEASE TAKE FURTHER NOTICE that if you disagree with the Cure Amounts shown on
25 Exhibit A with respect to your Contract; you must file a written objection (a "Cure Objection") that is
26 both filed with the Bankruptcy Court and served on the Debtors on or before March 29, 2013 (the
27 "Cure Objection Deadline") at the following addresses:
28

1 Flaster/Greenberg, P.C.
2 Attn: William J. Burnett, Esq.
3 1600 John F. Kennedy Blvd., 2nd Floor
4 Philadelphia, PA 19103

Sidhu Law Firm, LLC
Attn: Ambrish S. Sidhu, Esq.
810 S. Casino Center Blvd., Suite 104
Las Vegas, NV 89101

5 PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve a Cure Objection
6 by the Cure Objection Deadline, then the Bankruptcy Court may refuse to allow you to speak
7 regarding your proposed Cure Amount at the hearing on approval of the Sale to the Successful Bidder
8 (the "Sale Hearing") and may rule against you without formally calling the matter at the Sale Hearing,
9 upon which you will be forever barred from asserting a Cure Objection.

10 PLEASE TAKE FURTHER NOTICE that any Cure Objection must state the specific defaults
11 alleged by you, as well as the amount you allege is necessary to cure the default. If you do not file a
12 timely Cure Objection, and your Contract is assumed and assigned, you will receive the Cure Amount
13 listed on Exhibit A in the manner provided in the final Asset Purchase Agreement entered into between
14 the Successful Bidder and the Debtors. **ANY COUNTERPARTY THAT DOES NOT TIMELY**
15 **OBJECT TO THE CURE AMOUNT LISTED ON EXHIBIT A SHALL BE DEEMED TO**
16 **CONSENT TO THE CURE AMOUNT LISTED ON EXHIBIT A.**

17
18 PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to seek hearing on any
19 Cure Objection on an expedited basis, including upon an order shortening time or by hearing via
20 telephonic appearance, as necessary to resolve such Cure Objection prior to the Sale Hearing.

21 PLEASE TAKE FURTHER NOTICE that the Sale Hearing is scheduled to be held on April
22 10, 2013, at 10:00 a.m. (Pacific Daylight Time), before the honorable Bruce A. Markell, United States
23 Bankruptcy Judge in Courtroom No. 3, Foley Federal Building, 300 Las Vegas Boulevard South, Las
24 Vegas, NV 89101. Any unresolved issues in any Cure Objection will be heard at the Sale Hearing.

25
26 **ASSUMPTION/REJECTION OBJECTIONS**

27 PLEASE TAKE FURTHER NOTICE that if you disagree with the potential assumption and
28 assignment of your Contract in connection with the Sale, or the potential rejection of your Contract if it

1 is not assumed and assigned to the Successful Bidder in connection with the Sale, you must make an
2 objection (an "Assumption/Rejection Objection") by: (i) filing a written objection with the Bankruptcy
3 Court and serving the objection on the Debtors at the addresses in the preceding paragraph before the
4 Sale Hearing, and/or (ii) appearing at the Sale Hearing and setting forth the Assumption/Rejection
5 Objection in person at the Sale Hearing.

6 PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve an
7 Assumption/Rejection Objection before the Sale Hearing, or raise an Assumption/Rejection Objection
8 at the Sale Hearing, then the Bankruptcy Court may rule against you, upon which you will be forever
9 barred from asserting an Assumption/Rejection Objection.

11 PLEASE TAKE FURTHER NOTICE that the Auction will be held shortly before the Sale
12 Hearing, and therefore the results of the Auction may not be made available to you until the Sale
13 Hearing or shortly before the Sale Hearing, and the Debtors may not file a notice setting forth the
14 Successful Bidder and any Contracts that will be assumed and assigned until after the Sale Hearing is
15 completed. You may not be informed whether or not your Contract will in fact be assumed and
16 assigned to the Successful Bidder until the Sale Hearing. However, you will not have the opportunity
17 to file an objection after the Sale Hearing. **IF YOU INTEND TO OBJECT TO THE REJECTION**
18 **OF YOUR CONTRACT, OR TO THE ASSUMPTION AND ASSIGNMENT OF YOUR**
19 **CONTRACT TO THE SUCCESSFUL BIDDER, YOU MUST OBJECT AT OR BEFORE THE**
20 **SALE HEARING, EVEN THOUGH THE SUCCESSFUL BIDDER WILL NOT BE**
21 **DETERMINED UNTIL THE AUCTION OCCURS AND YOUR CONTRACT WILL NOT**
22 **HAVE BEEN CHOSEN FOR REJECTION OR ASSUMPTION AND ASSIGNMENT UNTIL**
23 **THE AUCTION OCCURS.** You may prospectively file an Assumption/Rejection Objection at any
24 time prior to the date of the Auction, without knowledge of the identity of the Successful Bidder or
25 whether your Contract will be rejected or assumed and assigned.
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1 PLEASE TAKE FURTHER NOTICE that upon the assumption and assignment of any
2 Contracts, the Debtors will be relieved of all liability arising out of the assumption and assignment of
3 such Contracts pursuant to section 365(k) of Title 11 of the United States Code (the "Bankruptcy
4 Code").

5 PLEASE TAKE FURTHER NOTICE that the Sale Hearing is scheduled to be held on April
6 10, 2013, at 10:00 a.m. (Pacific Daylight Time), before the honorable Bruce A. Markell, United States
7 Bankruptcy Judge in Courtroom No. 3, Foley Federal Building, 300 Las Vegas Boulevard South, Las
8 Vegas, NV 89101.

10 PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to seek hearing on any
11 Assumption/Rejection Objection filed prior to the Sale Hearing on an expedited basis, including upon
12 an order shortening time or by hearing via telephonic appearance, as necessary to resolve such
13 Assumption/Rejection Objection prior to the Sale Hearing.

15 PLEASE TAKE FURTHER NOTICE that nothing in the Bid Procedures Order, the Contract
16 Order, or this Notice requires the Debtors to assume and assign any particular Contract as part of any
17 Sale. The Debtors will offer to prospective bidders a list of all Contracts, and qualified bidders
18 participating in the Auction will set forth a list of the Contracts that they will seek to have the Debtors
19 assume and assign as part of the Sale. Any proposed assumption and assignment of any Contract will
20 only occur in connection with the Sale if the Debtors receive an acceptable bid for the Assets that
21 requires such assumption and assignment. Any Contracts which are assumed and assigned by the
22 Debtors will be assumed and assigned to the Successful Bidder in the manner provided in the final
23 Asset Purchase Agreement entered into between the Successful Bidder and the Debtors.

25 PLEASE TAKE FURTHER NOTICE that to the extent the Debtors do not seek to assume and
26 assign any particular Contract as part of any Sale, such Contract shall be deemed rejected pursuant to
27
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1 Section 365 of the Bankruptcy Code, and such rejection will be deemed to have occurred as of the date
2 of the Contract Order.

3 PLEASE TAKE FURTHER NOTICE that nothing in the Bid Procedures Order, the Contract
4 Order, or this Notice shall be deemed a representation by the Debtors that each Contract is in fact an
5 executory contract or unexpired lease. The Debtors reserve all rights to assert that any particular
6 Contract is not an executory contract or unexpired lease to the extent necessary.
7

8 **DATED** this ____ day of March, 2013.

9
10 FLASTER/GREENBERG P.C.

11 BY:

12 Steven D. Usdin, Esq. (Admitted Pro Hac Vice)
13 William J. Burnett, Esq. (Pro Hac Pending)
14 Eric J. Van, Esq. (Nevada Bar No. 10259)
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ELECTRONICALLY FILED
February 19, 2013

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18 william.burnett@flastergreenberg.com
19 eric.van@flastergreenberg.com

20 *Proposed Counsel for the Debtors*

21
22 UNITED STATES BANKRUPTCY COURT
23 DISTRICT OF NEVADA

24 In Re:) Chapter 11
25)
26 AMERICA WEST RESOURCES, INC., *et al.*,) Jointly Administered Under
27) Case No. BK – 13-10865 bam
28 Debtors.)
Date: OST PENDING
Time: OST PENDING

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR MOTION FOR
ORDER AUTHORIZING PROCEDURE FOR (I) REJECTION OR ASSUMPTION AND
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND
(II) SETTING FORTH OF CURE AMOUNTS**

Debtors, America West Resources, Inc.; Hidden Splendor Resources, Inc.; America West
Marketing, Inc.; and America West Services, Inc. a/k/a Wildcat Loadout (each a "Debtor," and
collectively, the "Debtors") have filed a *Motion for Order Authorizing Procedure for (i) Rejection or
Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of*

1 *Cure Amounts* (the “Motion”), which they seek to have heard on shortened time on March 6, 2013 at
2 10:00 a.m..¹ This *ex parte* application (the “Application”) is made and based upon 11 U.S.C. § 105,
3 Fed. R. Bankr. P. 9006, and LR 9006, the following points and authorities, the Declaration of Eric J.
4 Van, Esq. (the “Van Declaration”) attached hereto as Exhibit “1”, the Attorney Information Sheet filed
5 contemporaneously herewith, and the papers and pleadings on file herein, judicial notice of which is
6 respectfully requested.

7
8 This Motion is made and based upon the *Omnibus Declaration of John Chapman, Chief*
9 *Restructuring Officer, in Support of the Debtors’ First Day Motions* [Docket No. 7] (the “Omnibus
10 Declaration”), which is incorporated by reference herein in its entirety.

11 POINTS AND AUTHORITIES

12 1. By way of background, the Debtors hereby incorporate the Omnibus Declaration and
13 the Van Declaration by reference in their entirety.

14 2. 11 U.S.C. § 105 allows this Court to issue such orders as are necessary to carry out the
15 provisions of title 11 of the United States Code (the “Bankruptcy Code”).

16 3. Fed. R. Bankr. P. 9006(c)(1) generally permits a Bankruptcy Court, for cause shown
17 and in its discretion, to reduce the period during which any notice is given in accordance with the
18 Federal Rules of Bankruptcy Procedure (the “Rules”). Specifically, Rule 9006(c)(1) provides, in
19 pertinent part, that “when an act is required or allowed to be done at or within a specified time by these
20 rules or by a notice given thereunder or by order of court, the court for cause shown may in its
21 discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1).

22 4. LR 9006 provides further authority for shortening the time for a hearing. According to
23 LR 9006(a), every motion for an order shortening time must be accompanied by an affidavit stating the
24 reasons for an expedited hearing. Pursuant to 28 U.S.C. § 1746, a declaration may be used in place of
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1 Unless otherwise indicated, all capitalized terms used herein shall have the same meaning set forth in the Motion.

1 an affidavit where the required evidence is to be provided by the person making the motion. As set
2 forth in the Van Declaration, there is ample cause to hear the Motion on shortened time.

3 5. LR 9006 requires the moving party to submit an Attorney Information Sheet indicating
4 whether opposing counsel was provided with notice, whether opposing counsel consented to the
5 hearing on an order shortening time, the date counsel was provided with notice and how notice was
6 provided or attempted to be provided. An Attorney Information Sheet was filed contemporaneously
7 with this Application.
8

9 **CONCLUSION**

10 WHEREFORE, the Debtors respectfully request that this Court grant this Application and issue
11 an order shortening time to hear the Motion on March 6, 2013 at 10:00 a.m., along with any such other
12 relief as is just and equitable.
13

14 **DATED** this 19th day of February, 2013.

15 FLASTER/GREENBERG P.C.

16 BY: /s/ Eric J. Van, Esq.
17 Steven D. Usdin, Esq. (Pro Hac Pending)
18 William J. Burnett, Esq. (Pro Hac Pending)
19 Eric J. Van, Esq. (Nevada Bar No. 10259)
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Exhibit 1

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19 eric.van@flastergreenberg.com

20 *Proposed Counsel for the Debtors*

21 UNITED STATES BANKRUPTCY COURT
22 DISTRICT OF NEVADA

23 In Re:) Chapter 11
24)
25 AMERICA WEST RESOURCES, INC., et al.,) Jointly Administered Under
26) Case No. BK – 13-10865 bam
27 Debtors.)
28)
29) **Date: OST PENDING**
30) **Time: OST PENDING**
31)

32 **DECLARATION OF ERIC J. VAN, ESQ. IN SUPPORT OF *EX PARTE* APPLICATION FOR**
33 **ORDER SHORTENING TIME TO HEAR MOTION FOR ORDER AUTHORIZING**
34 **PROCEDURE FOR (I) REJECTION OR ASSUMPTION AND ASSIGNMENT OF**
35 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND**
36 **(II) SETTING FORTH OF CURE AMOUNTS**

37 I, Eric J. Van, Esq., hereby declare as follows:

38 1. I am over the age of 18 and am mentally competent. I have personal knowledge of the
39 facts in this matter and if called upon to testify, could and would do so.

1 2. I am an associate with the law firm of Flaster/Greenberg P.C., which maintains offices
2 at 4 Penn Center, 2nd Floor, 1600 J.F.K. Boulevard, Philadelphia, PA 19103, and is counsel for the
3 Debtors² in the above-captioned bankruptcy cases. I am duly licensed to practice law in the State of
4 Nevada.

5 3. The Debtors have filed a *Motion for Order Authorizing Procedure for (i) Rejection or*
6 *Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of*
7 *Cure Amounts* (the "Motion"), which they seek to have heard on shortened time. The Motion sets
8 forth proposed procedures for the assumption and assignment (and cure, if any) or rejection of
9 executory contracts and unexpired leases of the Debtors in connection with the proposed sale of
10 substantially all of the Debtors' assets.

11 4. On February 11, 2013, the Debtors previously filed a *Motion for Entry of Orders*
12 *Authorizing (A) Emergent Consideration of a Proposed Sale of Substantially All of the Debtors'*
13 *Assets, Free and Clear of All Claims, Liens, Liabilities, Rights, Interests and Encumbrances; (B)*
14 *Emergent Consideration of Bidding and Noticing Procedures Related to the Sale; (C) Consideration of*
15 *Proposed Form of Asset Purchase Agreement; (D) Consideration of Assumption and Assignment of*
16 *Certain Executory Contracts and Unexpired Leases; (E) Scheduling an Auction Sale and Approval of*
17 *Notice of Same; and (F) Granting Related Relief* (the "Bid Procedures Motion"), seeking approval of
18 Bidding Procedures governing the proposed sale.
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22 5. As part of the Debtors' first day hearings, hearing on the Bid Procedures Motion was
23 initially scheduled for February 13, 2013, but the hearing was orally continued to March 6, 2013 at
24 10:00 a.m. This Bankruptcy Court indicated at the first day hearings that it would also hear the Motion
25 on the rescheduled hearing date.
26
27

28 ² Unless otherwise indicated, all capitalized terms used herein shall have the same meaning set forth in the Motion.

6. The Bid Procedures Motion proposes, among other things, an auction of the Debtors' assets on April 9, 2013, with a hearing on approval of the sale of the assets to the successful bidder on April 10, 2013. Because the Debtors' executory contracts and unexpired leases may be a part of the proposed sale, it is necessary to provide notice of the pending assumption and assignment (and cure, if any) or rejection of each such agreement prior to the sale of the assets, and to obtain Bankruptcy Court approval of the procedures to be used in assuming and assigning, curing, or rejecting agreements in a manner that comports with the proposed Bid Procedures Motion.

6. Furthermore, for reasons more fully set forth in the Bid Procedures Motion, it is necessary to sell the Debtors' assets at the sale hearing date of April 10, 2013 to comply with the terms of the DIP financing provided to the Debtors by Denly Utah Coal, LLC, and to dispose of the Debtors' assets at minimal additional costs of maintenance.

7. The Motion does not substantively affect any party and merely seeks the approval of certain procedures. Thus, a hearing on shortened time will not prejudice any party in interest.

8. As such, the Debtors respectfully request to have the Motion heard at the same time as the Bid Procedures Motion on March 6, 2013 at 10:00 a.m.

I declare under penalty of perjury of the laws of the United States that these facts are true to the best of my knowledge and belief.

DATED this 19th day of February, 2013.

/s/ Eric J. Van, Esq.
ERIC J. VAN, ESQ.

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ELECTRONICALLY FILED
February 19, 2013

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19 eric.van@flastergreenberg.com

20 *Proposed Counsel for the Debtors*

21
22 UNITED STATES BANKRUPTCY COURT
23 DISTRICT OF NEVADA

24 In Re:) Chapter 11
25)
26 AMERICA WEST RESOURCES, INC., *et al.*,) Jointly Administered Under
27) Case No. BK – 13-10865 bam
28 Debtors.)
29)
30) **Date: OST PENDING**
31) **Time: OST PENDING**
32)

33 **ATTORNEY INFORMATION SHEET IN SUPPORT OF *EX PARTE* APPLICATION FOR**
34 **ORDER SHORTENING TIME TO HEAR MOTION FOR ORDER AUTHORIZING**
35 **PROCEDURE FOR (I) REJECTION OR ASSUMPTION AND ASSIGNMENT OF**
36 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND**
37 **(II) SETTING FORTH OF CURE AMOUNTS**

38 As required by LR 9006, proposed counsel for the Debtors has contacted the parties listed
39 below regarding the Debtors' application for an order shortening time. They agree or disagree to the
40 time being shortened, as indicated below:

Name	Date Contacted	Agree	Disagree
James V. Hoeffner Counsel for Denly Utah Coal, LLC	2/19/2013	X	
Athanasios Agelakopoulos Office of the United States Trustee	2/15/2013	X	

DATED this 19th day of February, 2013.

FLASTER/GREENBERG P.C.

BY: /s/ Eric J. Van, Esq.
 Steven D. Usdin, Esq. (Pro Hac Pending)
 William J. Burnett, Esq. (Pro Hac Pending)
 Eric J. Van, Esq. (Nevada Bar No. 10259)

RECEIVED
FEB 26 2013
DIV. OF OIL, GAS & MINING